

852. Adulteration and misbranding of Leunbach' Paste. U. S. v. Merz & Company Chemical Works, Inc., and Adolph G. Schickert. Plea of guilty by Adolph G. Schickert, sentence 18 months in jail. Plea of nolo contendere by corporation. Sentence suspended. (F. D. C. No. 5505. Sample Nos. 5032-E, 5033-E, 12877-E, 14055-E to 14057-E, incl., 14059-E, 20127-E, 28933-E, 28934-E, 32419-E, 32420-E, 32473-E to 32475-E, incl., 33525-E.)

On October 31, 1941, the United States attorney for the District of New Jersey filed an information against Merz & Company Chemical Works, Inc., East Orange, N. J., and Adolph G. Schickert, alleging shipment within the period from on or about March 16, 1939, to on or about September 11, 1940, from the State of New Jersey into the States of Ohio, Georgia, California, Pennsylvania, and the District of Columbia, of quantities of Leunbach' Paste complete outfit and Leunbach' Paste refill tubes which were misbranded. On March 31, 1942, the grand jury for the District of New Jersey presented an indictment based on the same charges against the defendants. (The information which had been filed on October 31, 1941, was dismissed at the conclusion of the case.)

Examination showed that the Leunbach' Paste complete outfit contained a tube of paste and instruments for its application, and the refill tubes contained the same paste. Analysis of a sample of this paste showed that it contained potassium iodide, small proportions of thymol, benzoin, and myrrh incorporated in a soap base, alcohol, and water.

Portions of the article were alleged to be adulterated in that its purity fell below that which it purported and was represented to possess, in that the article by virtue of the use for which it was recommended and the conditions under which it was to be used, that is, injection into the cervix and pregnant uterus under conditions of the strictest asepsis, purported and was represented to be sterile, whereas it was not sterile but was contaminated with viable micro-organisms.

All of the shipments were alleged to be misbranded in that the article was dangerous to health when used in the dosage or with the frequency or duration prescribed, recommended, or suggested in the labeling. (The labeling of this product is set out substantially in Drugs and Devices Notices of Judgment No. 607.)

It was alleged to be further misbranded in that its labeling was false and misleading in its representations and suggestions that it was a safe and appropriate treatment for the therapeutic termination of pregnancy, whereas it was not a safe and appropriate treatment for the therapeutic termination of pregnancy, but was unsafe and dangerous, and capable of producing serious and even fatal consequences.

On October 14, 1942, Adolph Schickert entered a plea of guilty, and a plea of nolo contendere was entered on behalf of the corporation. On October 30, 1942, the court sentenced Schickert to serve 6 months on each of the 17 counts in the indictment, the periods imposed on the first 3 counts to be served consecutively, totaling 18 months, and the periods imposed on the remainder of the counts to be served concurrently with that imposed on count 1. On November 6, 1942, the court ordered sentence suspended as to the corporation.

853. Misbranding of Hunt's Salve. U. S. v. 5½ Dozen Packages of Hunt's Salve. Default decree of condemnation. Product ordered destroyed. (F. D. C. No. 7829. Sample No. 94230-E.)

On June 29, 1942, the United States attorney for the Eastern District of Arkansas filed a libel at Little Rock, Ark., against 5½ dozen packages of Hunt's Salve, alleging that the article was shipped in interstate commerce on or about May 5, 1942, by the Allied Drug Products Co. from Chattanooga, Tenn. The article was labeled in part: "Hunt's Salve Manufactured for A. B. Richards Med. Co. Sherman, Texas."

Examination showed that the article consisted essentially of chrysarobin 0.43 percent, sulfur iodine, and carbolic acid, in an ointment base. The amount of ointment contained in each can did not exceed 1¼ avoirdupois ounces.

The article was alleged to be misbranded (1) in that it would be dangerous to health when used as recommended: "Once or twice a day and always at bed time, apply Hunt's Salve; rub it in thoroughly"; (2) in that the statement, "Contents: 1½ oz. av.," was false and misleading since the actual amount of ointment did not exceed 1¼ avoirdupois ounces; and (3) in that the statements in the labeling representing and suggesting that the article would be effective to relieve itching and remove crusts associated with eczema, promote the healing of cuts, burns, scratches, and skin abrasions, and would give relief from itching caused by skin irritations, were false and misleading as the article was not effective for these purposes.

On October 2, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

DRUGS ACTIONABLE BECAUSE OF FAILURE TO BEAR ADEQUATE DIRECTIONS OR WARNING STATEMENTS

854. Misbranding of Indian Antiseptic Hair and Scalp Stimulator. Adulteration and misbranding of Eez-all Germicide for the Skin. U. S. v. Adolph F. Frick. Plea of nolo contendere. Fine, \$300. (F. D. C. No. 6441. Sample Nos. 22596-E, 22597-E.)

On April 1, 1942, the United States attorney for the Northern District of California filed an information against Adolph F. Frick, San Francisco, Calif., alleging shipment on or about April 3, 1941, of a quantity of the above-named products from the State of California into the State of Nevada.

Analysis of a sample of Indian Antiseptic Hair and Scalp Stimulator showed that it consisted essentially of small proportions of a phenolic compound and free ammonia, alcohol, and water.

The article was alleged to be misbranded in that the statements, "Indian * * * Hair and Scalp Stimulator for dandruff—itching scalp—falling hair—eczema, etc. * * * For itching scalp, dandruff, falling hair, eczematous condition," and the designs of an Indian head, arrows, and Indian scenes appearing on the label, were false and misleading since they represented and suggested that the article consisted solely of substances used by the Indians, and that it would be efficacious as a hair and scalp stimulator, in the treatment of dandruff, itching scalp, falling hair, eczema, and other eczematous conditions, whereas it contained ingredients unknown to the Indians and would not be efficacious for the conditions represented.

It was alleged to be misbranded further in that it was in package form and the label did not bear an accurate statement of the quantity of contents. It was also misbranded in that it was fabricated from two or more ingredients and its label did not bear the common or usual name of each active ingredient.

Analysis of a sample of Eez-all Germicide for the Skin showed that it consisted essentially of small proportions of a phenolic compound and free ammonia, alcohol, and water. Bacteriological examination showed that the article was neither an antiseptic nor a germicide. The article was alleged to be adulterated in that its strength differed from that which it purported and was represented to possess, and in that it purported and was represented to be a germicide, whereas it was not a germicide. It was alleged to be misbranded (1) in that the statement, "Eez-all Germicide for the Skin For Cuts, Bruises, Burns, Itching, Poison Oak, Athlete's Foot, Throat, and Gums," was false and misleading as it represented that the article would bring about ease and relief from pain and discomfort, implied in the expression "Eez-all," and that it was a germicide and effective for the conditions mentioned, whereas the drug was not a germicide and was not effective for the conditions indicated; (2) in that it was fabricated from two or more ingredients and its label did not bear the common name or usual name of each active ingredient; and (3) in that its label did not bear adequate directions for use.

On October 17, 1942, after entry of a plea of nolo contendere, the defendant was fined \$100 on each of the 3 counts contained in the information.

855. Misbranding of Ru-Ma-Dol, McDades Prescription, Moe-Pep, and Allan's Red Wash. Adulteration and misbranding of Allan's Gland Capsules. U. S. v. Allan & Co., Inc., and John G. Ayars. Plea of nolo contendere. Fine, \$150. (F. D. C. No. 7298. Sample Nos. 67928-E, 67932-E, 71214-E, 71216-E, 71217-E.)

On October 2, 1942, the United States attorney for the Eastern District of Missouri filed an information against Allan & Co., Inc., St. Louis, Mo., and John G. Ayars, alleging shipment on or about September 18, 20, and 27, and October 1, 1941, from the State of Missouri into the States of Arkansas and Tennessee of quantities of the above named products.

Analysis of a sample of Ru-Ma-Dol showed that it consisted essentially of sodium salicylate and extracts of plant drugs, including an alkaloid-bearing drug, alcohol, glycerine, and water. The article was alleged to be misbranded in that statements in the labeling regarding the efficacy of the drug in the cure, mitigation, treatment, or prevention of rheumatism, neuralgia, neuritis, pain, and swelling, and in the relief of symptoms of rheumatism, neuralgia, and neuritis, were false and misleading, since the product was not efficacious for these purposes.